

**State of California
California Regional Water Quality Control Board
Santa Ana Region**

ITEM: 4

**Minutes of September 13, 2013 Board Meeting
City of Loma Linda
25541 Barton Road
Loma Linda, CA 92354**

1. Chair Beswick called the meeting to order at 9:00 A.M.

Board Members Present

Board Members Absent

Carole H. Beswick, Chair
William Ruh, Vice Chair
Fred Ameri
Linda Ackerman
Tom Rivera

Susan Longville

Staff Members Present

Kurt V. Berchtold, Executive Officer
David Rice, Regional Board Counsel
Michael J. Adackapara, Supervising Water Resource Control Engineer
Stephen Mayville, Chief of Enforcement and Dairy Units
Hope Smythe, Environmental Program Manager
Mark E. Smythe, Chief of Stormwater - Coastal
Gary Stewart, Chief of Compliance, Regulations and Permits
Adam Fischer, Environmental Scientist
Felipa Carrillo, Executive Assistant
Kevin Heinemann, Staff Information Systems Analyst

Public In Attendance

Norris Brandt, EVMWD
Don Lee, Tetra Tech
Steve Horn, County of Riverside
Roger Turner, Consultant
David Lancaster, Citizen

Marsha Westropp, OCWD
Pat Boldt, WRCAC
Andre Monette, BBK/Claremont
Dee Dee D'Adamo, SWRCB
James Ralph, OE, SWRCB

2. Public Forum

There were no public comments.

Executive Officer, Kurt Berchtold welcomed James Ralph from the Office of Enforcement. He also announced the recent promotion of Hope Smythe to Environmental Program Manager to take over the stormwater and enforcement division. Michael Adackapara will be in charge of the regulatory division.

3. State Water Resources Control Board (SWRCB) Liaison Report

Dorene "DeeDee" D'Adamo, SWRCB Liaison, provided a fact sheet to the Board Members and briefly updated them on the industrial storm water general permit that is currently under review by the State Board. She indicated that the permit had had been adopted back in 1997 and regulates approximately nine thousand facilities statewide.

Ms. D'Adamo stated that between 2006 and 2013 three versions of the draft permit were issued. She indicated that the last version of the draft permit was released on July 19, 2013. Due to concerns expressed by the stakeholders about the cost of compliance with the proposed draft permit, the comment period was extended to allow more time for review of the permit.

Ms. D'Adamo also indicated that the proposed draft requires implementation of best management practices as a way to minimize cost of compliance rather than having numeric effluent limits. Ms. D'Adamo said that storm water monitoring at industrial sites has not produced reliable data and the state is trying to incorporate quality control and quality assurance requirements in the draft permit to improve reliability of monitoring data. Ms. D'Adamo believes that the storm water permit will be adopted before the end of the year. Ms. D'Adamo answered questions from the Board about the draft permit.

Ms. D'Adamo pointed out that the State Board is developing a strategic plan to address groundwater problems and it is one of the Board's highest priority issues. Executive Officer Berchtold said that a group of experts from State Board and regional boards is helping to develop the Groundwater Strategic Plan, and that Cindy Li from Region 8 is providing assistance on salt and nutrient management issues.

4. Approval of the Minutes of the Regular Board Meeting of July 19, 2013.

Motion: It was moved by Board Member Ruh, seconded by Board Member Ackerman, and unanimously carried to approve the Minutes of the July 19, 2013 Board Meeting, as presented.

5. Consent Calendar

It was noted that item *8 had an errata and item *9 had been postponed to November 1, 2013.

- *6. Emergency Waiver of Waste Discharge Requirements - Resolution No. R8-2013-0049.
- *7. Waste Discharge Requirements for the Cities of Claremont and Pomona NPDES No. CA8000410 - Order No. R8-2013-0043.
- *8. Renewal of Waste Discharge Requirements and National Pollutant Discharge Elimination Permit (NPDES No. CA8000027) for Elsinore Valley Municipal Water District, Regional Water Reclamation Facility - Order No. R8-2013-0017 with errata.
- *9. *This item was postponed to the November 1, 2013 Board Meeting.* Renewal of General Waste Discharge Requirements and National Pollutant Discharge Elimination Permit (NPDES No. CA8000383) for Discharges to Surface Waters of Processed Wastewater Associated with Certain Wellhead Treatment Systems - Order No. R8-2013-0031

Motion: It was moved by Board Member Ruh, seconded by Board Member Rivera, and unanimously carried to adopt Resolution No. R8-2013-0049, Orders No. R8-2013-0043, and R8-2013-0017 (with errata), as presented.

10. Mandatory Minimum Penalty Complaint, Classic Plating, Inc., Orange County - Order No. R8-2013-0045

Chair Beswick read the Chair's Statement for this hearing and all those who were to testify were sworn in.

Presentation by Prosecution Team, Adam Fischer, Environmental Scientist:

Mr. Fischer told the Board that the Mandatory Minimum Penalty complaint was issued by the Division Chief, Michael Adackapara, on May 7, 2013. Mr. Fischer explained the basis for issuing the complaint to Classic Plating, Inc., and indicated that the proposed penalty amount was \$17,475. Mr. Fischer described staff's numerous efforts to work with the business owner in order to bring the business into compliance. He also stated that the hearing on this item was postponed from the July 19, 2013 Board meeting to provide the discharger additional time to submit evidence to support any reduction in the proposed penalty amount. The discharger has not submitted any financial information to support a reduction in the assessed amount.

The complaint is based on the fact that the discharger failed to get coverage under the General Industrial Storm Water Permit, State Water Resources Control Board Order No. 97-03- DWQ (General Permit). The facility engages in metal plating, polishing and buffing and has some of its activities and/or materials exposed to storm water. Mr. Fischer reported that permit coverage is required only if industrial materials and/or activities are exposed to storm water. The discharger did eliminate some of the exposures, but continued to periodically store raw materials and finished products outside, exposed to storm water. Mr. Fischer displayed a number of photographs as evidence for the continued exposures.

Mr. Fischer explained that after being notified of the permit requirements in 2010, the discharger failed to obtain the permit. Water Code Section 13399.33(a)(1) requires the Regional Board to impose a minimum penalty of \$5,000 per year, or fraction thereof. For the three years without permit coverage, the minimum penalty is \$15,000. Water Code Section 13399(d) allows the Regional Board to recover staff costs. Staff costs have been calculated to be \$2,475. The total assessed amount is \$17,475.

Mr. Fischer said that the discharger has made oral statements regarding adverse financial circumstances, but has not provided any evidence to substantiate those claims. Staff postponed this hearing once previously in order to allow time to receive and evaluate the information, but without that supporting evidence, the Board cannot reduce the minimum penalty amount. Additionally, Mr. Fischer said that Classic Plating has avoided at least \$8,300 in unpaid fees.

Based on the information presented, staff's recommendation is that the Regional Board affirm the assessed penalty amount of \$17,475.

Presentation by Classic Plating, Inc., Shafiqui Alam:

Mr. Alam, President of Classic Plating, indicated that the business rarely does any metal plating, polishing and buffing activities. He said he doesn't understand why Mr. Fischer states there are issues with pollution, and wonders why he is being punished so harshly. He said he corrected the problems and he should not be required to obtain permit coverage.

Mr. Alam noted that he should not be punished for minor exposures and that the runoff from his facility does not pose any threat to water quality. He requested to be exempted from the permit requirements and from paying the penalty amount. He said recovery of staff costs is reasonable and he is willing to pay that amount.

Comments:

James Ralph, Office of Enforcement, State Water Board, said that Mr. Alam had ample opportunity to enroll his business under the statewide General Permit. He indicated that staff had gone out of its way to communicate this to the discharger and tried to work with him to bring him into compliance. Mr. Ralph said that the discharger has not provided any information to indicate that he should not be under the permit. So he requested the Board to adopt the proposed Order.

Chair Beswick made sure that Mr. Alam understood the allegations and what he needs to do to comply with the General Permit.

Mr. Alam said he did not understand what else he must do as he was not polluting the water. He explained that all the wheels are under a plastic cover until they are ready to be shipped out. He also pointed out that once the wheels are on a vehicle, they are exposed to storm water. He said that he even removed the pallets and built a shed, so he did not understand why he is still being penalized.

Mr. Berchtold pointed out that in Mr. Fischer's testimony, he did recognize that the facility might not be currently doing metal polishing, but there were other activities that would require coverage under the General Permit, unless exposure were completely eliminated. If the discharger had enrolled under the permit back in 2010, he would not be here today with the minimum penalty action.

At this time, Chair Beswick closed the hearing and asked for a motion.

Motion: It was moved by Board Member Ackerman, seconded by Board Member Ruh, and unanimously carried to adopt Order No. R8-2013-0045, affirming the mandatory minimum penalty amount of \$17,475 as proposed in Complaint No. R8-2013-0036.

11. Mandatory Minimum Penalty Complaint, Torco International, San Bernardino County - Order No. R8-2013-0051
This item was settled.

12. Hazardous Waste Incident Report
Information item.

13. Underground Storage Tanks Corrective Action Plans
Information item.

14. Underground Storage Tanks Site Closure Report
Information item.

15. Regional Board Member and Executive Officer Communications

Chair Beswick briefly discussed the upcoming October 24-25, 2013 WQCC meeting, with a possible tour on October 23rd, and said that an agenda is being developed.

16. Closed Session
No closed session was required.

17. Adjournment

The meeting was adjourned at 10:04 A.M. to the regular Board meeting of November 1, 2013, 9:00 A.M., at the Irvine Ranch Water District, Multi-Purpose Room, 15600 Sand Canyon Avenue, Irvine, CA 92618.

Respectfully submitted:

KURT V. BERCHTOLD
Executive Officer

/fc